

COURT-II

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No.233 of 2015

Dated : **7th April, 2016**

Present : **Hon'ble Mr. Justice Surendra Kumar, Judicial Member**
Hon'ble Mr. Munikrishnaiah, Technical Member

In the matter of:-

Punjab State Power Corporation Ltd. **Appellant(s)**

Versus

Punjab State Electricity Regulatory Commission **Respondent(s)**

Counsel for the Appellant(s) : Mr. Anand K. Ganesan
Mr. Sandeep Raj Purohit
Ms. Swapna Srivastava

Counsel for the Respondent(s) : Mr. Sakesh Kumar for R-1

ORDER

1. The instant appeal being Appeal No. 233 of 2015 has been filed by the Punjab State Power Corporation Ltd. (PSPCL) under Section 111 of the Electricity Act, 2003 against the Order dated 07.01.2013, passed by the Punjab State Electricity Regulatory Commission (State Commission) in Petition No. 57 of 2012 (*suo-moto*) whereby the State Commission has purported to implement the Judgment dated 18.10.2012 in Appeal Nos. 7, 46 & 122 of 2011.
2. The State Commission has refused to implement the said decision on the issue of target availability for incentive. Thus, only the issue of incentive on target availability is involved in the instant appeal, as has been made clear by learned counsel for the Appellant during arguments. The same position is admitted by Mr. Sakesh Kumar, learned counsel for the State Commission.
3. We have heard Mr. Anand K. Ganesan, learned counsel for the appellant and Mr. Sakesh Kumar, learned counsel for the State Commission and perused the Impugned Order as well as Judgment dated 11.09.2014 passed by this Tribunal in Appeal No. 174 of 2012, captioned as 'Punjab State Power Corporation Ltd. v/s Punjab State Electricity Regulatory Commission.

4. This Appellate Tribunal in its aforesaid mentioned Judgment dated 11.09.2014 being Appeal No. 174 of 2012 in paragraph 38, page No. 29 thereof has observed as under:

“ The learned counsel for the State Commission has also stated that the Appellant did not furnish separate figures/accounts for the function of generation and distribution of electricity. It is, therefore, not possible to determine the capacity charges separately for generation function and then determine and approve the capacity charges on the basis of actual plant availability as per the regulations. We feel that non-furnishing of the accounts in the ARR petition by the Appellant cannot be a reason for not following the regulations. The State Commission is empowered to direct the Appellant to furnish the requisite segregated data/accounts in order to determine the tariff as per the Regulations. The Appellant is also bound to furnish the requisite data as directed by the State Commission. Accordingly, the Appellant is also directed to furnish the requisite data/accounts as sought to the State Commission. The State Commission in the additional written submissions has submitted that the Commission shall as per the directions of the Tribunal, examine the issue afresh. Accordingly, the State Commission is directed to re-examine the matter and the Appellant shall furnish the requisite data/accounts as required by the Commission in order to determine the incentive in the form of additional capacity charges as per the Regulations.”

5. There is no dispute between the parties to the instant appeal about the applicability of the aforesaid paragraph 38 of the Judgment dated 11.09.2014.
6. We think it just and proper to allow the said appeal in the light of the same principle laid down by us in paragraph 38 of our Judgment dated 11.09.2014 in Appeal No. 174 of 2012. Thus, the instant appeal is accordingly allowed and Impugned Order is hereby set aside to the extent indicated above.

No order as to costs.

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member